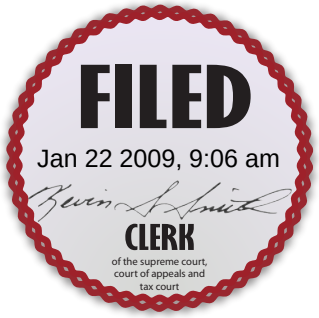

ATTORNEY FOR APPELLANT:

DONALD C. SWANSON, JR.
Fort Wayne, Indiana

ATTORNEYS FOR APPELLEE:

STEVE CARTER
Attorney General of Indiana

JOSEPH DELAMATER
Deputy Attorney General
Indianapolis, Indiana

IN THE COURT OF APPEALS OF INDIANA

TRACY A. LAWRENCE,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 02A05-0804-CR-227
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE ALLEN SUPERIOR COURT
The Honorable Robert Schmoll, Magistrate
Cause No. 02D04-0710-FB-155

January 22, 2009

MEMORANDUM DECISION - NOT FOR PUBLICATION

MAY, Judge

Tracy Lawrence challenges the sufficiency of the evidence supporting his conviction of Class D felony receiving stolen property.[1] Finding the evidence sufficient, we affirm.

FACTS AND PROCEDURAL HISTORY

On October 4, 2007, Mardi Clemens went to bed between 11:00 p.m. and midnight after accidentally leaving her garage door open. Clemens is a very heavy sleeper.

Two or three hours later, security officers at Parkview Behavioral Center attempted to arrest Lawrence for trespassing on hospital grounds. Lawrence fled, but after a small scuffle between Lawrence and the officers, Lawrence was apprehended. The officers took Lawrence to their security office, where they searched him and found two of Clemens' credit cards and a key to a Volkswagen. Lawrence did not explain to the officers his possession of the cards.

The officers arrested Lawrence. One officer went to Clemens' home. Clemens determined she was missing two credit cards, seventeen dollars in cash, a DVD player, and her Volkswagen. Police took Clemens to Parkview, where she identified her Volkswagen in the parking lot. The key found in Lawrence's possession fit Clemens' Volkswagen.

The State charged Lawrence with Class B felony burglary,[2] Class D felony receiving stolen property, and Class D felony auto theft,[3] and alleged Lawrence was an habitual offender. After a jury found Lawrence guilty of receiving stolen property,

[1] Ind. Code § 35-43-4-2(b).
[2] Ind. Code § 35-43-2-1.
[3] Ind. Code § 35-43-4-2.5.

Lawrence admitted he was an habitual offender. The court sentenced Lawrence to three years for the felony and enhanced it by four years because he was an habitual offender.

DISCUSSION AND DECISION

Our standard of review for sufficiency of evidence questions is:

> When reviewing the sufficiency of the evidence to support a conviction, appellate courts must consider only the probative evidence and reasonable inferences *supporting* the verdict. It is the fact-finder's role, not that of appellate courts, to assess witness credibility and weigh the evidence to determine whether it is sufficient to support a conviction. To preserve this structure, when appellate courts are confronted with conflicting evidence, they must consider it most favorably to the trial court's ruling. Appellate courts affirm the conviction unless no reasonable fact-finder could find the elements of the crime proven beyond a reasonable doubt. It is therefore not necessary that the evidence overcome every reasonable hypothesis of innocence. The evidence is sufficient if an inference may reasonably be drawn from it to support the verdict.

Drane v. State, 867 N.E.2d 144, 146-47 (Ind. 2007) (quotations, citations, and footnote omitted) (emphasis in original).

Receiving stolen property occurs when one "knowingly or intentionally receives, retains, or disposes of the property of another person that has been the subject of theft." Ind. Code § 35-43-4-2(b). To convict a defendant of receiving stolen property, the State must prove the defendant knew the property was stolen. *Bennett v. State*, 787 N.E.2d 938, 946 (Ind. Ct. App. 2003), *trans. denied* 804 N.E.2d 746 (Ind. 2003). Lawrence asserts there is a "papacy [sic] of evidence from which the jury in this case could have reasonably inferred that the two credit cards were possessed with Appellant's knowledge that they were stolen." (Appellant's Br. at 7.)

Knowledge of the property's character "may be inferred from the circumstances surrounding the possession." *Bennett*, 787 N.E.2d at 946. For example, "possession of

recently stolen property, when joined with attempts at concealment, evasive or false statements, or an unusual manner of acquisition is sufficient to support a conviction for receiving stolen property." *Driver v. State*, 725 N.E.2d 465, 469 (Ind. Ct. App. 2000). "The test of knowledge is not whether a reasonable person would have known that the property had been the subject of theft but, whether, from the circumstances surrounding his possession of the property, a defendant knew that it had been the subject of theft." *Id.*

At trial, Lawrence claimed he was trying to check himself into Parkview Hospital to receive treatment for schizophrenia. But when he was approached by the hospital's security officers, Lawrence attempted to flee the scene and physically struggled to get away from the officers.

Lawrence also claimed at trial that he found the key and credit cards in a cigarette box in an ashtray where nurses smoke outside the hospital and that he was taking the items into the hospital with the hope that he would receive some form of reward for the items. However, this claim is undermined by his fleeing from the security officers and not providing them any such explanation to the security officers when they found the cards in his possession. (*See* Tr. at 109-110 (Officer Bradtmueller testified, "when I asked him about them, about whose they were, he didn't give me any answers.").)[4]

Only two to three hours had passed between the time Clemens went to bed and the time Lawrence was found with her property. In light of Lawrence's attempt to flee the scene and the improbability of his explanation at trial, we find reasonable minds could

[4]In his Statement of Facts, Lawrence asserts he told the officer he did not know who owned the card and he hoped to get a reward for the items. However, to support those assertions, Lawrence relies on his own testimony, which we may not consider because it is not favorable to the jury's verdict. *See Drane*, 867 N.E.2d at 146-47.

infer from the evidence that Lawrence knew the items were stolen. *See Driver*, 725 N.E.2d at 471 (jury could infer defendant knew license plate was stolen where defendant was evasive about ownership of the vehicle and origin of the license plate).

Affirmed.

FREIDLANDER, J., and BRADFORD, J., concur.